



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

May 16, 1939

Honorable E. P. Jennings
County Auditor
Hardin County
Kountze, Texas

Dear Sir:

Overruled by *O-7424*

Opinion No. O-784

Re: Employment of relatives
by a county commissioner,
salary to be paid from
bond funds

This will acknowledge receipt of your letter of May 5, 1939, requesting an opinion from this Department, the question being framed from the contents of your letter, by the writer, as follows:

"Can a County Commissioner, supervising the expenditure of bond funds, employ, and pay persons from same, who are related to him?"

You are respectfully referred to Article 432, Revised Penal Code of the State of Texas, 1925, which provides as follows:

"No officer of this State or any officer of any district, county, city, precinct, school district, or other municipal subdivision of this state, or any officer or member of any State, district, county, city, school district or other municipal board, or judge of any court, created by or under authority of any general or special law of this State, or any member of the Legislature, shall appoint, or vote for, or confirm the appointment to any

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office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board, the Legislature, or court of which such person so appointing or voting may be a member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever."

It has been repeatedly held by this Department that the above article applies to the employment by the county commissioners or the county commissioners' court of persons related to a county commissioner within the stated degrees of relationship.

The fact that the persons employed would be paid from a bond issue rather than current funds of the county would make no difference, as monies raised from a bond issue are "public funds" within the contemplation of the statutes.

You do not state the relationship between the county commissioner and the persons proposed to be employed by him. For your information, we are enclosing a copy of an opinion written by Honorable Scott Gaines, a former Assistant Attorney General, which very ably sets out the rules for determining the degrees of relationship.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

James Noel
James Noel
Assistant

JN:BT

APPROVED:

George E. Mann
ATTORNEY GENERAL OF TEXAS

